



Paper No. 8

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**JUL 16 2002**

**OFFICE OF PETITIONS**

In re Application of  
Julian, et al.  
Application No. 09/998,004  
Filed: November 28, 2001  
Attorney Docket No. 17516-002580US  
For: ENDOSCOPIC BEATING-HEART  
STABILIZER AND VESSEL OCCLUSION  
FASTENER

DECISION GRANTING  
PETITION

This is a decision on the petition, filed February 28, 2002 (certificate of mailing date February 15, 2002), requesting, in effect, partial withdrawal of the December 17, 2001 Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it states that Figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C appear to have been omitted from the application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on November 28, 2001. On December 17, 2001, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C be accorded a filing date of November 28, 2001 on the basis that 45 sheets of drawing figures, including drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C, were received in the Patent and Trademark Office (PTO) on November 28, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing November 28, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 45 sheets of drawings.

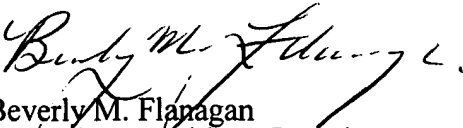
The return postcard constitutes *prima facie* evidence that 45 sheets of drawing figures, including drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C, were filed on November 28, 2001. MPEP 503. Accordingly, the request is granted.


The \$130.00 petition fee will be refunded to petitioners' deposit account no. 20-1430.

The Office acknowledges receipt of a declaration and power of attorney, filed February 28, 2002.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **November 28, 2001**, using the copies of drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C submitted with the instant petition. Office records will be corrected to show that 45 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

  
Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
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